MEMO

DATE: November 4, 2004

TO: The Community Economic and Human Development Committee (CEHD)
The Energy and Environment Committee (EEC)
The Transportation and Communications Committee (TCC)

FROM: E. Felicia Brannon, Senior Government Affairs Officer
Phone: (213) 236-1886 E-Mail: brannon@scag.ca.gov

Charlotte Pienkos, Government Affairs Analyst
Phone: (213) 236-1811 E-Mail: pienkos@scag.ca.gov

SUBJECT: State and Federal Legislative End of Session Update

SUMMARY:

This memorandum, regarding the state budget, state bills of interest, federal bills of interest, the federal appropriations and TEA-21 reauthorization measures, and federal ethanol legislation summarizes the 2004 state and federal legislative sessions. Generally, the year was shaped by a large state budget deficit and repeated congressional delays. Transportation funding was borrowed for state General Fund uses, as in recent years, and remains uncertain in the long-term.

BACKGROUND:

State Update

State Budget

At the time of the release of the Governor's FY2004-05 budget proposal in January, the budget deficit totaled $15 billion. Following the May Revision and weeks of negotiations, the Governor and legislative leadership agreed to a budget containing $16.1 billion in combined two-year solutions, including loans and borrowing, fund shifts, and program savings among others.

A component of the budget was a $1.3 billion annual diversion of local property tax revenues to the General Fund in both FY2004-05 and FY2005-06 in exchange for limits on future state diversions of local funds. Transportation funds were also used to close the budget gap. The budget suspends Proposition 42, shifting $1.2 billion from the Transportation Investment Fund to the General Fund. Repayment is due by June 30, 2008. In the meantime, bonds backed by tribal gaming revenues will be used to repay $183 million to the Traffic Congestion Relief Fund and $1.2 billion in transportation loans due in FY2005-06. The passage of either Proposition 68 or 70 on November 2nd will void the compact, however, and no bonds will be issued, making the source of repayment funds unclear.

State Bills of Interest
In the CEHD, legislative interest centered on AB 2158 (Lowenthal) and AB 2348 (Mullin) regarding the Regional Housing Needs Assessment procedures, requirements and criteria. SCAG supported both bills, which embodied the compromises reached by the Housing Element Working Group (HEWG) convened by Assembly Member Lowenthal. SCAG staff participated in the HEWG. The Governor signed both bills in September.

In the EEC, AB 2006 (Nunez) on electrical restructuring drew the support of the Committee and the Regional Council. Governor Schwarzenegger, who favors further deregulation, vetoed AB 2006 despite repeated amendments to strip controversial portions from the bill. AB 2141 (Longville), which creates an Alluvial Fan Task Force to study and make recommendations regarding alluvial floodplain management, was signed by the Governor. SCAG supported AB 2141. AB 2042 (Lowenthal), which established baseline emissions at the Ports of Los Angeles and Long Beach, was vetoed. SCAG had asked Assembly Member Lowenthal to amend the bill to include SCAG in the consultation process and to use user-supported, dedicated projects to control emissions.

In the TCC, the reauthorization of TEA-21 (see below) and state transportation funding (see above) were of primary concern. Constitutional amendments ACA 24 (Dutra) and ACA 29 (Harman), regarding Proposition 42 protections, did not advance, but AB 2628 (Pavley), authorizing the use of HOV lanes by certain hybrid vehicles, was enacted and signed by the Governor. SCAG opposed AB 2628.

Federal Update

Appropriations
Both houses of Congress approved a stopgap spending measure to fund all federal programs through the first seven weeks of the 2005 fiscal year. The "continuing resolution" (CR) allows Congress to recess before the November 2, 2004 election only to return for a post-election lame-duck session starting November 15, 2004. The CR extends funding levels based on FY 2004 terms and conditions, and spending rates. As it currently stands, the Transportation-Treasury bill will more than likely become a part of an omnibus bill for FY 2005 spending.

New Starts rail projects that have Full Funding Grant Agreements (FFGA) or that are expected to sign an FFGA within the next six months were the only earmarks. Of the projects listed in the SCAG Six County Appropriations Request list for FY 2005, the only project that received an earmark was the Los Angeles County Metropolitan Transportation Authority Eastside Light Rail Transit Project for $60 million. This is because no highway projects were earmarked. It was understood that highway earmarks were to be dealt with at a later time.

Both the House and the Senate are due to return to Washington after the election for a lame-duck session, at which time the Transportation-Treasury Appropriations bill will be discussed in Conference.

Reauthorization of TEA-21

Faced with the prospect of losing some $1.8 billion in fiscal year 2004 obligation authority as the fiscal year ended, and unable to reach agreement on a multi-year reauthorization, Congress approved a sixth temporary extension (HR 5183) of TEA-21, to maintain federal transportation programs through May 31, 2005. Addressing a matter of great concern to states and the transportation industry, the extension specifically extends the funding guarantees and firewalls that were created in the Transportation Equity Act for the 21st Century (TEA-21).

The extension contained no earmarks.

Ethanol

Congress sent President Bush the Foreign Sales Corporations Export Tax Issues bill (H.R. 4520), nicknamed the "American Jobs Creation Act of 2004" or "FSC/ETI," on Oct. 11, 2004. The bill contains over 256 tax changes. The most important, however, to California is the volumetric excise tax credit (VEETC) section of the bill—the "ethanol tax fix." The corporate tax overhaul legislation beginning Jan. 1, 2005 would eliminate the 5.2-cent-per-gallon exemption that ethanol had enjoyed. As a result, the full 18.4-cents-per-gallon gas tax will go into the federal Highway Trust Fund. To preserve the incentive for ethanol producers, they will receive a 5.1-cent-per-gallon tax credit that will come out of the general fund. Included in an eight-month extension of surface transportation law, lawmakers retroactively stopped diverting for FY 04 2.5-cents-per-gallon of ethanol into the general revenue fund for deficit reduction. Instead, that money also will go into the highway fund. The corporate bill made this permanent beginning in the current fiscal year, which began Oct. 1. The corporate tax bill also assumes that the fund can collect $24 billion in the next six years with the ethanol language and by cracking down on fuel fraud.

The VEETC is worth an estimated $2.7 billion for California over five years after enactment. California is the largest user of ethanol in the nation and the measure will credit, as noted above, the revenue derived from the state's ethanol use directly to the Highway Trust Fund, allowing the state to recoup up to $2.7 billion in transportation funds.